

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

ROSALEE LANHAM,

Plaintiff,

v.

CIVIL ACTION No. 5:20-CV-60
Judge Bailey

ANDREW SAUL, Commissioner of
Social Security,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of the United States Magistrate Judge James P. Mazzone [Doc. 20]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on April 7, 2021, wherein he recommends that Plaintiff's Motion for Summary Judgment on the Pleadings [Doc. 16] be granted and Defendant's Motion [Doc. 19] be denied. Magistrate Judge Mazzone also recommends that this matter be remanded to the ALJ.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984).

Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of receipt of the R&R, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure. Having filed no objections within that time frame, defendant has waived the right to both *de novo* review and to appeal this Court's Order pursuant to 28 U.S.C. § 636(b)(1). Consequently, the R&R will be reviewed for clear error.


CONCLUSION

Having reviewed the R&R for clear error, it is the opinion of this Court that the R&R [Doc. 20] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, Plaintiff's Motion for Judgment on the Pleadings [Doc. 16] is hereby **GRANTED**. Furthermore, Defendant's Motion for Summary Judgment [Doc. 19] is hereby **DENIED**. This Court further **ORDERS** that this matter be **REMANDED** to the ALJ for the reasons set forth more fully in the R&R. Finally, this Court **ORDERS** that this matter be **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: April 22, 2021.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE